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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/682,036

10/10/2003

Jan M. Badovinac

0142-0435P

7998

2292 7590 05/07/2007
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EXAMINER

AUGUSTINE, NICHOLAS

ART UNIT

PAPER NUMBER

2179

NOTIFICATION DATE

DELIVERY MODE

05/07/2007

ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No. 10/682,036	Applicant(s) BADOVINAC ET AL.	
	Examiner Nicholas Augustine	Art Unit 2179	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 05 February 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) ☐ Notice of References Cited (PTO-892) | 4) ☐ Interview Summary (PTO-413) |
| 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) ☐ Information Disclosure Statement(s) (PTO/SB/08) | 5) ☐ Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) ☐ Other: _____ |

DETAILED ACTION

- A. This action is responsive to the following communications: Amendment filed 02/07/2007. **This action is made Final.**
- B. Claims 1-3,6,8,11 and 14 have been amended. Claims 16 and 17 are new.
- C. The objections were withdrawn due to amendment.

Specification

1. Specification objections have been withdrawn due to amendment.

Drawings

2. Drawing objections have been withdrawn due to amendment.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to

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consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

5. Claims 1-3, 5-13 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al (US 6,489,950 B1) in view of Battat et al (US 5,959,012).

NOTE:

Please note that the users action of cycling through information and selecting information will be present in the following discussions. Griffin discloses a portable terminal to which has a thumbwheel for input. Battat discloses a method/program, which can be used in conjunction with a portable terminal (similar to a PDA) with wireless receiver to communicate on a wireless network to which this program communicates with an object repository that house multiple devices on a network with dynamic updated status information. It will be know that the user of the portable device will be able to make use of the thumbwheel for selectively selecting devices on the network to obtain status information.

As to independent claim 1, Griffin teaches a portable terminal (Fig. 2) for presenting information (Fig. 1), Griffin teaches said portable terminal having a digital processor and related memory (Col.5, lines 54-57), a movable operating element (thumbwheel: 1000), a display for selectively displaying information data (4012 and Fig. 7), and means for selecting any one of a plurality of devices comprising (thumbwheel:

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1000) an array and a marker being movable relative to one another (Col. 7, lines 24-41) a movement of the movable operating element by an operator results in a substantially coincident the movement of said array or marker (Col. 32-38) said movable operating element is positioned so that it appears to an operator to at least partially overlap with the display such that said array or said marker appears to an operator to be part of the operating element (4002 and 4020, Fig. 11). Griffin does not specifically mention information regarding a plurality of devices in a proximate environment, an array of display objects representing individual devices, the array being at least partially displayed on said display, a marker displayed on said display. Battat teaches said information is regarding a plurality of devices in a proximate environment, where as Battat discloses a method/ program that provides information on said plurality of devices (Col. 8, lines 7-13), displaying data of a selected on of said device (Col. 8, lines 7-13), an array of display objects representing individual devices (Fig. 11), said array being at least partially displayed on said display (Fig.11), and a marker displayed on said display (Col. 16, lines 38-40). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Battat's method of retrieving status from network devices into the portable terminal of Griffin this is true because Battat discloses a computer environment to run the disclosed software comprising the X86 architecture (col.10, line 17:Battat) which is the same computer environment of the computer device disclosed by Griffin (col.5, line 54:Griffin).

Please note the discussion of Griffin in view of Battat above for the preceding dependent claims 2-14.

As to dependent claim 2, Griffin teaches the portable terminal according to claim 1, wherein the movable, operating element is positioned underneath the display (Fig. 11), and wherein the array or marker is adapted to move in unison with the movable operating element (Col. 5, lines 62-64).

As to dependent claim 3, Griffin teaches the portable terminal according to claim 1, wherein the movable operating element is positioned at a side of the display, and wherein the array or marker is adapted to move in unison with the movable operating element (Fig. 2).

As to dependent claim 5, Griffin teaches the portable terminal according to claim 1, wherein the movable element is a rotary ring and the array is circular or at least arc shaped in its display (Fig. 2).

As to dependent claim 6, Griffin teaches the portable terminal according to claim 2, wherein the movable, operating element is provided with a number of arresting positions, and whereby the position of one of the objects of said array is adapted to coincide with said marker at one of said arresting positions (Col. 3, lines 43-60).

As to dependent claim 7, Griffin teaches the portable terminal according to claim 5, wherein said rotary ring is a thumbwheel, which protrudes from at least one side surface of the portable terminal (Fig. 9-11).

As to dependent claim 8, Griffin teaches the portable terminal according to claim 2, wherein the movement of the movable operating element in a first state of the portable terminal is adapted to scroll the array of objects (Col. 10, lines 16-31), and the movement of the movable operating element in a second state of the portable terminal is adapted to scroll an array of menu items (Col. 15, lines 36-38).

As to dependent claim 9, Griffin teaches the portable terminal according to claim 8, wherein said movable operating element is positioned to allow the actuation of a switch, through the application of pressure, on the movable operating element for controlling menu options (Col. 15, lines 36-41).

As to dependent claim 10, Griffin teaches the portable terminal according to claim 9, wherein the movable operating element is made of flexible material so as to allow actuation of an internal switch (Col. 16, lines 65-67 and Col. 17, lines 1-29).

As to dependent claim 11, Griffin teaches the portable terminal according to claim 9, wherein the suspension of the movable operating element allows the latter to

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be translated by a user for actuating a switch (Col. 16, lines 65-67 and Col. 17, lines 1-29).

As to dependent claim 12, Griffin teaches the portable terminal according to claim 1, further comprising a transceiver for receiving a wireless signal incorporating said information (Col. 6, lines 11-17).

As to dependent claim 13, Griffin does not specifically mention the portable terminal according to claim 1, wherein said information includes operational status data for each of said devices, where in Battat does (Col. 9, lines 51-57). It is obvious to one of ordinary skill in the art at the time of the invention to have combine the program/methods of Battat into the device of Griffin this is true because Battat discloses a computer environment to run the disclosed software comprising the X86 architecture (col.10, line 17:Battat) which is the same computer environment of the computer device disclosed by Griffin (col.5, line 54:Griffin).

As to independent claim 15, Griffin does not specifically mention a network, a server and transmitter for receiving. Battat teaches a system for controlling the operational status of a plurality of image processing devices (Col. 16, lines 57-60) which comprises: a network for receiving the operational status information of said plurality of image processing devices (Col. 10, lines 7-11 and 38-47); a server and transmitter for

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receiving the operational status information from the network (Col. 10, lines 7-11 and 38-47); and a portable terminal as defined in claim 1, for receiving the operational status information for presentation to an operator (Note the above discussion of Griffin in view of Battat). It would have been obvious to one of ordinary skill in the art at the time of the invention to combine Battat's method of retrieving status from network devices into the portable terminal of Griffin this is true because Battat discloses a computer environment to run the disclosed software comprising the X86 architecture (col.10, line 17:Battat) which is the same computer environment of the computer device disclosed by Griffin (col.5, line 54:Griffin).

As to dependent claim 16, Griffin teaches the portable terminal of claim 1, wherein the movable operating element further comprises a wheel to pick up angular movements (col.16, lines 65-67 and col.17, lines 1-29).

As to dependent claim 16, Griffin teaches the portable terminal of claim 1, further comprising a switch adjacent the movable operating element and wherein the movable operating element contains an opening to permit it to be moved into contact with the switch (figures 12-13).

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al (US 6,489,950 B1) in view of Battat et al (US 5,959,012) in further view of Cass et al (US 6,304,674 B1)

As to dependent claim 4, Griffin and Battat does not specifically mention the movable element being a slide switch and the array is substantially linear in its display, whereas Cass does (Col. 3, lines 45-60). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combine a selective operating member of Cass into the device of Griffins as modified by Battat. Because implementations in PDA environments vary that produce the same result for functionality (Col. 3, lines 58-60; Cass).

7. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Griffin et al (US 6,489,950 B1) in view of Battat et al (US 5,959,012) in further view of Clernock et al (US 2002/0171670 A1)

As to dependent claim 14, Griffin in view of Battat fail to teach the portable terminal according to claim 1, further comprising means for producing an audible signal, whereas Clernock does (Paragraph 66; where in Clernock discloses the use of audible signals with the use of a PDA/ portable terminal). It would have been obvious to one of ordinary skill in the art at the time of the invention was made to have combined an audible notification means of Clernock into the device of Griffins as modified by Battat. It would be an advantage to the user to be notified of any kind of status change. Also it is well known in the art to have had a speaker and audible signals to be produced from common every day computer devices such as PDA's.

Response to Arguments

Applicant's arguments filed 02/05/2007 have been fully considered but they are not persuasive.

- *Applicant argues Griffin does not teach a portable terminal for presenting information regarding a plurality of devices in a proximate environment (page 13 and 17 of amendment).*
- Examiner partially agrees Griffin teaches of a portable terminal operable to run a variety of software. A 35 U.S.C. 103 is relied upon to show a software modules operable to render to a screen on a portable device a plurality of devices on a network (in a proximate environment)
- *Applicant argues Griffin fails to teach an "array" and a "marker" for coincide use on the array in the graphical user interface (page 13 of amendment).*
- Examiner disagrees with the applicant and reminds applicant of *In re Heck*, 699 F.2d 1331, 1332-33, 216 USPQ 1038, 1039 (Fed. Cir. 1983) (Quoting *In re Lemelson*, 397 F.2d 1006,1009, 158 USPQ 275, 277 (CCPA 1968)).
Wherein it is noted that any citation to specific, pages, columns, lines, or figures in the prior art references and any interpretation of the references should not be considered to be limiting in any way. A reference is relevant for all it contains and may be relied upon for all that it would have reasonably suggested to one having ordinary skill in the art. Looking at columns

8,9,10,14 and 15 one of ordinary skill in the art would have seen the use of multiple applications being used on said portable terminal such as: a graphical ribbon application, address book application, etc. and the use of an array and marker (cursor) wherein the user uses the thumbwheel to cycle through an array with a cursors displayed to indicate a current pre-selection of a graphical element on said device.

- *Applicant argues that the thumbwheel of Griffin does not overlap the display of said portable terminal or is movable (page 14 and 17 of amendment).*
- Examiner disagrees Griffin clearly shows said thumbwheel overlap the display of said portable terminal in figure 11. 4030 is clearly housed in the casing overlapping 4012. The use of figure 9 might be necessary to understand the position of display in relation to figure 11. *(A supplemental overlay graphic added to the drawing by Examiner can be requested and faxed for a better understanding).* As for being a movable operating member note the discussion above pertaining to “cycle” with use of “thumbwheel”.
- *Applicant does not understand what aspect of the disclosure constitutes the claimed “marker displayed on said display, wherein said array and said marker being movable relative to one another” (page 15)*
- Note the above argument relating to Griffin, as those limitations can be included by reference to Battat. Also in the reference of Battat not the citations of col.16 wherein Battat discloses a marker by means of graphical

overlay of objects this overlay has the functionality of a marker (by definition of marker, to indicate selection – to those skilled in the art as understood).

- *Applicant argues the motivation to combine references Battat into Griffin.*
- Examiner states that Griffin discloses a device for which the user has auxiliary controls such as thumbwheel to navigate a graphical user interface being that of an array and marker, wherein said device can run any application as sought to be thereon for any practical use (col.8). Battat discloses software that is executed on a computer using the X86 architecture that is the same architecture comprised on Griffins computer device.
- *Applicant argues Griffin does not disclose a switch (page 18).*
- Examiner disagrees Griffin teaches a means of actuating thus a switch is present in the disclosed reference ("clicking the wheel"; col.15)
- *Applicant begs the question to weather one of ordinary skill in the art would install a software application of Battat onto a device of Griffin (page 18).*
- Examiner believes so, in such that users provided multitude of desires in a computing environment and a network monitoring tool for use of on a portable computing device of Griffin for somebody in the profession of network diagnostics whom is away and not able to reach a non-portable computing device (desktop) it would be advantageous some to those skilled in the art to see the obviousness to combine the software of Battat into Griffin.

- *Applicant argues Cass fails to teach, "a slide switch having training or recognition characteristics is not made in the context of an array of display objects representing individual devices in a proximate environment (page 19).*
- Examiner clarifies that the 35 U.S.C. 103 rejection was based on Griffin in view of Battat in further view of Cass. It could be made the case that just Griffin in view of Cass is needed. It should be understood that Griffin teaches all of the limitations of 1-3 without a means of a slide switch but gives the possibility of added or replacing main operating member with a slide switch without departing from the spirit and scope of the invention of Griffin.
Therefore it should be understood that the reference of Cass is only being used for purpose of a slide switch on a portable device. Of course those skilled in the art would appreciate the use of a slide switch-activating user selections in replace of current operating member presented by Griffin.
- *Applicant argues Griffin does not teach "said movable operating elements made of flexible materials so as to allow actuation of an internal switch.*
- Examiner disagrees note the above discussion, if the user was able to activate a switch then there exist a flexible nature of a member to be moved to activate such switch as presented in col.15 of Griffin.
- *Applicant argues obviousness for claim 14 (page 20).*
- Examiner notes paragraphs 60-66 of Clernock, which points out audio signals for alerts/status on a PDA. Adding the feature not specifically mention and

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overlooked from simplicity by Griffin those skilled in the art would appreciate the use of audible means for notification.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

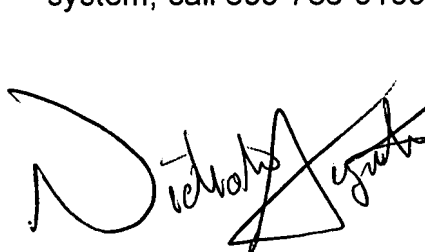
Inquires

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas M. Augustine whose telephone number is 571-272-1056. The examiner can normally be reached on Monday - Friday: 7:30- 5:00.

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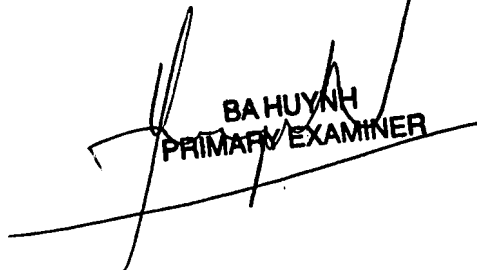
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Weilun Lo can be reached on 571-272-4847. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



N. Augustine
4/21/2007

Nicholas Augustine
Examiner
Art Unit 2179



BA HUYNH
PRIMARY EXAMINER